



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY	DOCKET NO.
09/450,283	11/26/99	WEAVER		

R

IM22/1208

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EXAMINER

HRUSKOCI, P

ART UNIT

PAPER NUMBER

1724

DATE MAILED:

12/08/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/459,283

Applicant(s)

WEAVER ET AL.

Examiner

Heuskoci

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 2-22-00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- Of the above claim(s) 7-18 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-6 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-6, drawn to a water conditioner, classified in class 210, subclass 198.1.
  - II. Claims 7-12, drawn to a method for conditioning an aqueous liquid, classified in class 210, subclass 696.
  - III. Claims 13-18, drawn to a method for conditioning a liquid hydrocarbon fuel, classified in class 585, subclass 899.
2. Inventions II and III, and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the water conditioner as claimed can be used to practice another materially different method such a method for purifying gaseous fluids. Furthermore, the method of Group II does not require the hydrocarbon fuel of Group III, and the method of Group III does not require the aqueous liquid of Group II.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. During a telephone conversation with G. Turner Moller on 12-5-00 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker 4,715,325 in view of Cassidy. Walker discloses (see col. 1 lines 5-38 and col. 7 lines 9-29) the structure of the water conditioner substantially as claimed. The claims differ from Walker by reciting that the core has a surface consisting essentially of a lower percentage

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by weight of lead. Cassidy disclose (see col. 1 line 16 through col. 4 line 65) that it is known in the art to form alloy-based fluid conditioning systems including copper and zinc without the use of lead to prevent deleterious lead contamination in drinking water. It would have been obvious to one skilled in the art to modify the water conditioner of Walker by utilizing the recited weight percentage of lead in the core surface in view of the teachings of Cassidy, to prevent lead contamination in drinking water. The specific metal weight percentages utilized to form the core surface would have been an obvious matter of process optimization to one skilled in the art, depending on the specific water treated and results desired, absent a sufficient showing of unexpected results.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 305-7718.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

  
**Peter A. Hruskoci**  
**Primary Examiner**  
**Art Unit 1724**

P. Hruskoci  
December 6, 2000